# **City Commission Meeting**

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive November 17, 2010

Mayor Matti Herrera Bower Vice-Mayor Michael Góngora Commissioner Jorge Exposito Commissioner Jerry Libbin Commissioner Edward L. Tobin Commissioner Deede Weithorn Commissioner Jonah Wolfson

City Manager Jorge M. Gonzalez City Attorney Jose Smith City Clerk Robert E. Parcher

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### **ATTENTION ALL LOBBYISTS**

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

# **REGULAR AGENDA**

#### **R2 - Competitive Bid Reports**

R2A Request For Approval To Award A Contract, Pursuant To Invitation To Bid (ITB) No. 25-09/10, For Right Of Way Infrastructure Improvement Program City Center Neighborhood #9c (Lincoln Road), Authorizing The Mayor And City Clerk To Execute An Agreement With M. Vila & Associates, Inc. In The Amount Of \$1,171,208.25, Plus Approve A Project Contingency Of Ten Percent In The Amount Of \$117,120.83, For A Total Project Amount Of \$1,288,329.08; Funding In The Amount Of \$1,171,208.25 For Construction Has Been Previously Appropriated In The City Center RDA Capital Fund 365; Funding In The Amount Of \$117,120.83 For Contingency Has Been Previously Appropriated In The City Center RDA Fund 365; Further Authorizing The Administration To Engage In Value Engineering To Further Reduce The Cost And Time For Completion Of Said Project. (Page 227)

(Capital Improvement Projects)

#### **R5 - Ordinances**

R5A Alton Road Historic District Buffer Overlay

An Ordinance Amending Chapter 142, "Zoning Districts And Regulations," Article III, "Overlay Districts," Creating Division 8 "Alton Road - Historic District Buffer Overlay," By Including Section 142-858 "Location And Purpose," And Section 142-859 "Development Regulations,: Including Among Other Provisions Regulations On Maximum Floor Area Ratio; Maximum Building Height; Minimum Setbacks; Building Separation; Demolition Or Additions To Contributing Buildings In An Historic District; And Land Use Regulations For Location Of Retail Uses, Restaurants, Bars, Entertainment Establishments, Alcoholic Beverage Establishments And Similar Uses; Requiring Conditional Use Approval Of Such Uses In Excess Of 20,000 Sq. Ft.; And Prohibiting Alcoholic Beverage And Entertainment Establishments In Open Areas With Exceptions As Prescribed In The Ordinance.

11:00 a.m. First Reading Public Hearing (Page 237)

(Planning Department)

R5B An Ordinance Amending Part I, Subpart B, Article IX, Related Special Acts, Of The Miami Beach City Code Entitled "Pension System For Disability And Retirement Of Members Of Police And Fire Departments"; Implementing Provisions Of The 2009-2012 Collective Bargaining Agreements Between The City And Fire Fighters Of Miami Beach, IAFF Local 1510, And Miami Beach Fraternal Order Of Police, William Nichols Lodge No. 8; Amending Section 65 Entitled "Computation Of Creditable Service; Service Record", Providing For The Purchase Of Additional Creditable Service Upon Completion Of Ten Years Of Service With The City; Amending Section 66 Entitled "Service And Disability Benefits Generally," Providing For The Inclusion Of Compensation For Certain Off Duty Services In A Member's Salary For Pension Purposes, And Providing For The Sale Of Unused Sick And/Or Vacation Time For Inclusion In A Member's Final Average Monthly Earnings, Subject To Certain Limitations; Revising The Limitation On Overtime Pay Included In Salary For Pension Purposes; Amending Section 67, Entitled "Cost-Of-Living Adjustment", Providing For An Annual Adjustment On The Anniversary Date Of A Member's Retirement Or Separation From Employment; "Amending Section 79 Entitled "Deferred Retirement Option Plan", Providing For A Maximum Drop Period Of Sixty Months And A Modified Cost Of Living Adjustment During The Drop Period; Creating A New Section 87 Entitled "Benefits For Employees Hired On Or After July 14, 2010"; Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing For An Effective Date.

11:00 a.m. Second Reading Public Hearing (Page 265)

(Human Resources) (Continued from October 27, 2010)

An Ordinance Amending The Miami Beach Employees' Retirement Plan; Implementing Provisions Of The 2009-2012 Collective Bargaining Agreement Between The City And The Communications Workers Of America, Local 3178 (CWA), Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing An Effective Date. <a href="https://doi.org/10.1001/journal.com/">11:10 a.m. Second Reading Public Hearing</a> (Page 275)

(Human Resources)
(First Reading on October 27, 2010)

R5D Use Of Consultants For Development Approval

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article 1, "In General," Section 118-6, "Use Of, And Cost Recovery For, Consultants For Applications For Development Approval," By Specifying Requirements For Reports To Be In Writing, To Be Submitted By A Specified Deadline, And For The Author Of Said Reports To Be Present At Public Hearing; Providing For Repealer; Codification; Severability; And An Effective Date. 11:30 a.m. Second Reading Public Hearing (Page 287)

(Planning Department) (First Reading on October 27, 2010)

#### R5 - Ordinances (Continued)

An Ordinance Amending Chapter 46 Of The Miami Beach City Code, Entitled "Environment," By Amending Article III Thereof, Entitled "Litter," By Amending Section 46-92 To Clarify And Provide For Additional Prohibitions And Definitions For Litter With Regard To Leaf Blowers And Yard Maintenance Debris, And Clarifying Penalties For Certain Litter Violations; Providing For Repealer; Severability; Codification; And An Effective Date. <a href="https://doi.org/10.1007/journal.org/">11:31 a.m. Second Reading Public Hearing</a> (Page 297)

(First Reading on October 27, 2010)

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 106, "Traffic And Vehicles," Article V, "Police Vehicle Towing," Division 2, "Permit," Section 106-213, "Application," To Reduce The Number Of Police Vehicle Towing Permits From Three To Two, Providing For Codification, Repealer, Severability And An Effective Date. 11:32 a.m. Second Reading Public Hearing (Page 309)

(Parking Department)
(First Reading on October 27, 2010)

- An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 2, Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By Amending Division 14, Entitled "Safety Committee," By Amending Sec. 2-176(E) To Require That One Of The Two Direct Appointments Made By The Mayor And Each City Commissioner Be Citizen Emergency Response Team (CERT) Certified; Providing For Codification, Repealer, Severability, And An Effective Date. First Reading (Page 317) (City Clerk's Office)
- R5H An Ordinance Amending The Land Development Regulations Of The City Code By Amending Chapter 118, "Administrative And Review Procedures," Article II, "Boards," Division 5, "Board Of Adjustment," Section 118-134, "Notification Of Hearings"; Article IV, "Conditional Use Procedure," Section 118-193. "Applications For Conditional Uses"; Article VI, "Design Review Procedures"; Section 118-254, "Decision Of Design Review Board," And Section 118-257, "Deferrals, Continuances And Withdrawals," Article X, "Historic Preservation"; Section 118-563, "Review Procedure," And Section 118-591, "Historic Designation Procedure," And Article XI. "Neighborhood Conservation Districts (NCD)"; Section 118-705, "Procedures For Adoption Of Specific NCD Overlay Districts," To Expand The Public Notice Period For All Four Land Use Boards From 15 Days To 30 Days; Providing For Repealer; Codification; Severability And An Effective Date. First Reading (Page 321)

(Planning Department)

Alcoholic Beverages And Nudity Regulations - Applicant: Leroy Griffith
An Ordinance Amending Chapter 6, "Alcoholic Beverages," Of The Code Of The City Of Miami Beach, Florida, By Amending Sections 6-40 And 6-41 "Total Nudity And Sexual Conduct Prohibited," And "Provisions Pertaining To Establishments Permitting Partial Or Total Nudity," To Allow Establishments Licensed As Alcoholic Beverage Establishments To Offer Partial And Total Nude Adult Entertainment; Providing For Codification, Repealer, Nonseverability, And An Effective Date.

First Reading (Page 331)

(Planning Department) (Continued from October 27, 2010)

#### R5 - Ordinances (Continued)

An Ordinance Amending The Code Of The City Of Miami Beach, Florida, By Amending Chapter 130 Off-Street Parking, Article II "Districts; Requirements," Section 130-31 "Parking Districts Established," Creating A New Parking District No. 5, And Section 130-33 "Off-Street Parking Requirements For Parking Districts Nos. 2, 3 And 4," By Adding New Parking Regulations For Parking District No. 5, For Properties With A Lot Line On Alton Road From 5th Street To Dade Boulevard, Including A Reduction In Off-Street Parking Requirements For Certain Land Uses And Bicycle Parking Requirements; Providing For Codification; Repealer; Severability; And An Effective Date. First Reading (Page 441)

(Planning Department)

#### **R7 - Resolutions**

A Resolution [Granting Or Denying] An Appeal Request By The Euroamerican Group Pertaining To A Decision Of The Design Review Board, Pursuant To Miami Beach City Code Section 118-262, For The Property Located At 31 Venetian Way (DRB File No. 22347) 10:20 a.m. Public Hearing (Page 459)

(Planning Department)

A Resolution Approving, Following A Duly Noticed Public Hearing, A Lease Agreement Between The City And Syanna, LLC. (Tenant), For The Lease Of Approximately 2216 Square Feet Of City Owned Property, Located At 22 Washington Avenue, Miami Beach, Florida, For The Purpose Of An Outdoor Café Associated With The Restaurant To Be Operated By The Tenant At 816 Commerce Street, Which Is Directly Adjacent To And West Of The Subject City Property; Said Lease Having An Initial Term Of Five Years, With An Option To Renew For Four Years And 364 Days, At The City's Sole Discretion; Further Waiving By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code. 11:40 a.m. First and Only Public Hearing (Page 475)

(Real Estate, Housing & Community Development)

- R7C A Resolution Setting The Dates For The Year 2011 City Commission Meetings. <u>Joint City</u>

  <u>Commission Redevelopment Agency</u> (Page 507)

  (City Clerk's Office)
- A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Invitation To Bid (ITB) No. 40-09/10, For The Construction Of The Sunset Harbour Parking Garage And Retail Project; And Authorizing The Mayor And City Clerk To Execute An Agreement With Boran Craig Barber Engel Construction Company, Inc. (BCBE), In The Not-To-Exceed Amount Of \$9,267,556.00, For The Construction Of The Project, Plus Approve A Project Contingency In The Amount Of \$926,755.60 (For A Grand Total Of \$10,194,311.60), And Execution Subject To And Contingent Upon Satisfaction Of The Following Conditions: 1.) Proceeds Of The Bond Financing For The Garage Being Available To The City; 2.) Occurrence Of The "Second Closing" For The Remaining Property Being Acquired By The City For Assembly Of The Land To Develop/Construct The Project; And 3.) Concurrent With The "Second Closing," Execution Of An Agreement Between The City And The Developer/Owner Of The Retail Portion Of The Project For Set Aside Of The Developer's Contribution; And Further Authorizing The Administration To Engage In Value Engineering To Further Reduce The Cost And Time For Completion Of Said Project. (Page 515)

(Capital Improvement Projects)

# R7 - Resolutions (Continued)

A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A New Sovereignty Submerged Land Lease (BOT File No. 130765469) For The Miami Beach Marina By And Among The City And The Miami Beach Redevelopment Agency (RDA), As Lessee, And The Board Of The Internal Improvement Trust Fund Of The State Of Florida, As Lessor. Joint City Commission Redevelopment Agency (Page 523)

(City Attorney's Office)

A Resolution Approving The Settlement Agreement Between Nancy Bona, Mary Michel, And Robert And Rita Swedroe, And The City Of Miami Beach, And Authorizing The Mayor And City Clerk To Execute A Settlement Agreement, And Authorizing The City Manager And City Attorney To Take Such Actions As May Be Necessary To Carry Out The Intent Hereof. (Page 601)

(City Attorney's Office)

# **R9 - New Business and Commission Requests**

R9A Board And Committee Appointments. (Page 607) (City Clerk's Office)

R9A1 Board And Committee Appointments - City Commission Appointments. (Page 613) (City Clerk's Office)

R9B1 Dr. Stanley Sutnick Citizen's Forum. (12:30 p.m.) (Page 619)

R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

R9C The Committee Of The Whole Will Meet During Lunch Recess Of The November 17, 2010 City Commission Meeting At The City Manager's Office Large Conference Room To Discuss The Audit Committee. (Page 621)

(Budget & Performance Improvement)

R9D Discussion Regarding The Shift To iPad From Printed Agenda. (Page 687)
(Requested by Commissioner Jorge R. Exposito)
(Deferred from October 27, 2010)

R9E Discussion Regarding Revenue Generating Opportunities / Miami Air Show. (Page 689) (Requested by Commissioner Jorge R. Exposito) (Deferred from October 27, 2010)

R9F Discussion And Referral To Finance And Citywide Projects Committee A Change In City Ordinance
To Allow The City Of Miami Beach To Sell Police Vehicles To Other Municipalities, Instead Of Selling
Them Through The Auction Process. (Page 691)
(Requested by Commissioner Jorge Exposito)

# R9 - New Business and Commission Requests (Continued)

R9G Discussion Regarding The Mega Yacht Complex. (Page 693) (Requested by Commissioner Jorge R. Exposito)

R9H Discussion Regarding Resolution No. 2010-27314, In Which The City Commission Voted Against Supporting The Miami Dolphins' Initiative To Get Public Funding For Their Stadium. (Page 695) (Requested by Commissioner Jonah Wolfson)

### R10 - City Attorney Reports

R10A Attorney Client Session (Page 699)

Pursuant To Section 286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

Nancy J. Bona, Mary Michel, Robert M. Swedroe, Rita Swedroe And Altos Del Mar Realty Corp. V. City Of Miami Beach Eleventh Judicial Circuit Court, General Jurisdiction Division Case No. 07-32876 CA 21

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission On November 17, 2010 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above-Referenced Litigation Matter.

The Following Individuals Will Be In Attendance: Mayor Matti Herrera Bower; Members Of The City Commission: Jorge Exposito, Michael Gongora, Jerry Libbin, Ed Tobin, Deede Weithorn, And Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Gary Held, And Senior Assistant City Attorney Aleksandr Boksner.

#### **Reports and Informational Items**

Reports and Informational Items (see LTC #302-2010)

**End of Regular Agenda**